

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,) 2:11-cr-00327-PMP-CWH
Plaintiff,)
v.)
BO ARDEN ELLISON,)
Defendant.)

ORDER

Before the Court for consideration is Defendant Bo Arden Ellison's Motion Pursuant to 28 U.S.C. 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (Doc. #138), filed January 3, 2014. Plaintiff United States filed an Opposition to Defendant's Motion (Doc. #147) on April 7, 2014. The Government's response includes the Affidavit of Paola M. Armeni, Esq., former counsel for Defendant Ellison (Doc. #146-1).

Defendant Ellison’s motion is grounded in his claim that his trial counsel was ineffective. However, for the reasons stated in the Government’s Opposition (Doc. #146), the Court finds that Defendant Ellison has entirely failed to demonstrate that counsel’s representation fell below an objective standard of reasonableness, and that counsel’s deficient performance prejudiced Defendant Ellison. *Strickland v. Washington*, 466 U.S. 668 (1984). Defendant Ellison’s remaining arguments are meritless with the exception of one which is conceded by the Government wherein the Government notes that the plea agreement and appropriate guideline calculations should have provided for a low-end guideline sentence of thirty (30) months rather

than thirty-three (33) months. Accordingly, the Government recommends that the
1 Judgement be amended to impose a thirty (30) month sentence, and that Ellison's
2 motion be denied in all other respects. With this the Court concurs.

3 **IT IS THEREFORE ORDERED** that Defendant Bo Arden Ellison's
4 Motion to Correct Sentence (Doc. #138) is GRANTED to the limited extent that the
5 Clerk of Court shall forthwith enter and Amended Judgment and Commitment Order
6 imposing a term of thirty (30) months in the custody of the Attorney General rather
7 than thirty-three (33) months.

8 **IT IS FURTHER ORDERED** that Defendant Ellison's Motion (Doc.
9 #138) is DENIED in all other respects.

10 DATED: April 18, 2014.

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13 PHILIP M. PRO
14 United States District Judge
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